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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/098,758    06/17/98    DUVALL    T    2543-28-93

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IM62/0321

EXAMINER

MULCAHY, P

ART UNIT

PAPER NUMBER

1713

DATE MAILED:

03/21/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/098,758**

Applicant(s)  
**Duvall**

Examiner  
**Peter D. Mulcahy**

Group Art Unit  
**1713**



☒ Responsive to communication(s) filed on Dec 28, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-3 and 6-11 is/are pending in the application.

Of the above, claim(s) 10 and 11 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-3 and 6-9 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bae et al.

The rejection as set forth under 35 U.S.C. § 103 in Paper No. 5 is deemed proper and is herein repeated.

Applicants' newly amended claims as well as the remarks filed in support thereof have been fully considered but have been deemed to be not persuasive.

The Bae patent clearly shows the incorporation of zinc chloride and a latent mercaptan as instantly claimed. Applicants acknowledge this but have amended the claims to recite "consisting essentially of" and argue that the Bae patent does not anticipate or suggest the stabilization of the halogen containing polymer by zinc chloride alone. This is not persuasive. Applicants do not claim the stabilization of the halogen containing polymer by zinc chloride alone. It should be noted that the claim language "consisting essentially of" only

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excludes those ingredients which would materially change the basic and novel characteristics of the instantly claimed invention. There remains no showing or allegation as to whether or not there are ingredients disclosed in Bae which would change the basic and novel characteristics of the instantly claimed invention. Once again the Examiner has found the stabilization of halogen containing polymers by the incorporation of zinc chloride and a latent mercaptan as instantly claimed. None of the ingredients as disclosed in Bae are seen to be excluded by the instantly claimed limitation "consisting essentially of".

**THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy, whose telephone number is (703) 308-2449. The examiner can normally be reached on Tuesday through Friday from 7:30 A.M. to 6:00 P.M.

The fax telephone number for this group is (703) 305-3599.

Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2351.

P. Mulcahy:cdc  
March 13, 2000



PETER D. MULCAHY  
PRIMARY EXAMINER  
GROUP 1500